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ADMINISTRATIVE COMPLAINT

by

BLOCK GRANT COMPLIANCE COALITION

re

VELOPMENT BLOCK GRANT PROGRAM
USING PLAN
AND COUNTY OF SAN FRANCISCO

December 18, 1979

MARCIA ROSEN, Assistant Director
MICHAEL TRAYNOR, Member

SAN FRANCISCO LAWYER'S COMMITTEE FOR
URBAN AFFAIRS

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1980 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
AND HOUSING PLAN
OF THE CITY AND COUNTY OF SAN FRANCISCO

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I. INTRODUCTION

The San Francisco Block Grant Compliance Coalition files this administrative complaint challenging the sixth year (1980) Community Development Block Grant (CDBG) Program and Housing Assistance Plan submitted to HUD by the City and County of San Francisco on November 9, 1979. The City's sixth-year application fails to properly address the housing needs of its low and moderate-income residents and does not sufficiently provide for expanding economic opportunities for its lower-income population.

The Coalition files this complaint pursuant to 24 C.F.R. 570.303(f) on the grounds that the City's description of needs and objectives is plainly inconsistent with available facts and data; that many of the activities to be undertaken by the City are plainly inappropriate to meeting its needs and objectives; and that the application does not comply with the requirements of the Housing and Community Development Act, 42 U.S.C. 5301 et seq., the regulations promulgated thereunder, and other applicable law. As more fully described below, the Coalition contends that:

(1) The City's Housing Assistance Plan (HAP) goals fail to adequately address renter housing needs and are inappropriate to meeting the critical need for construction of new assisted low and moderate-income housing;

(2) The City's economic development programs do not result in permanent employment opportunities for persons of low and moderate income;

(3) The 1980 application includes numerous program activities which are ineligible for funding under the

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governing statute and regulations;

(4) The City grossly overestimates the program benefit to low and moderate-income persons at 93.8% (1980 Application, II. (2) Cost Summary Form, HUD-7067, p. 4). In fact, less than 75% of the 1980 program funds principally benefit low and moderate-income persons; thus the application must be subject to a front-end review by HUD pursuant to §570.302(c)(2) to determine whether the activities proposed are plainly inappropriate to meeting the City's needs and whether, taken as a whole, the proposed program principally benefits low and moderate-income persons;

(5) A review of the City's performance demonstrates its failure to make substantial progress in carrying out its approved program and calls into question whether the City has a continuing capacity to carry out the approved program in a timely manner; and

(6) Therefore, HUD must condition approval of the City's 1980 application and take other appropriate remedial action pursuant to §570.910, including, but not limited to:

(a) requiring the City to provide additional information;

(b) implementing and enforcing progress schedules for completion of approved activities;

(c) requiring the City to suspend, discontinue or not incur costs of ineligible activities; and

(d) requiring reprogramming funds from ineligible activities to other eligible ones.

The body of this complaint will specifically detail objectors' concerns by critically analyzing the 1980 application and the City's performance in relation to governing

law.

II. COMPLAINT

A. Identification of Complainant

Complainant is an ad hoc coalition of nonprofit, community-based development and advocacy organizations which are broadly representative of the City's low and moderate-income neighborhoods. Some have received or will receive funding through the City's CDBG Program to carry out approved community development activities, and others have never applied for such funding. All share a history of involvement in community development issues, both in their immediate neighborhoods and on a citywide level. Many have participated actively in the citizens' participation opportunities afforded in the development of the 1980 application and in the performance evaluation of the City's community development program. All share a commitment to assuring fair and equitable implementation of the City's CDBG program.

Complainant coalition is composed of the following groups:

- Bernal Heights Residents for Community Development Reform
- Chinatown Coalition for Better Housing
- The Committee to Restructure the San Francisco Housing Aujthority, the Office of Community Development, the San Francisco Redevelopment Agency, the Bureau of Building Inspection, and the Department of City Planning
- La Raza Centro Legal
- Operation Upgrade
- Potrero Hill Community Development Corporation
- San Francisco Information Clearinghouse

- Western Addition Community Development Citizens Committee

B. Complainant's Statement of Interest

Complainant's interest in San Francisco' CDBG program stems from its overriding concern with socio-economic trends which are operating to the severe detriment of the City's low and moderate-income population. San Francisco's notorious housing situation and its inability to provide employment opportunities for its lower skilled, blue collar, and non-professional population has reached such crisis proportions that the very survival of its traditional lower income and ethnic communities is threatened.

The trends leading to this crisis have existed since the 1950's. The City's private and public economic development activities have neglected blue collar industries, the traditional employment base for San Francisco's lower income residents, while fostering the development of white collar intensive industries, a job market inaccessible to most low-income San Franciscans. Data released by the Association of Bay Area Governments (ABAG) in their recent study of Bay Area housing and economic trends, "Projections '79" indicates that this pronounded shift in the City's economic base has resulted in a labor market wherein nearly half of all available jobs are in basic employment (that which serves markets outside the Bay region) -- predominantly in finance, corporate administration, and tourist industries. The ABAG report moreover predicts that if present trends continue, by the year 2000 almost one-half of the entire work force will be non-resident commuters. It is anticipated that skilled non-residents will demand an increasing

portion of the economic pie -- of the 152,000 new jobs to be created over the next 20 years, a staggering 82% will go to non-residents.

Housing trends have closely tracked this economic cycle. Redevelopment projects have demolished low-income neighborhoods while new construction has emphasized market rate housing. Reduced employment opportunities and the development of the suburbs have encouraged an out-migration of the City's blue collar populations, and the neighborhoods they have vacated have been occupied by lower-income people who have been forced out of their homes by urban renewal. Although the newer "neighborhood revitalization" approach stresses rehabilitation rather than demolition, the increased housing costs it engenders equally displace the poor, many of whom are forced to relocate outside of San Francisco.

Increased job opportunities coupled with the desirability of "revitalized" inner-city neighborhoods has resulted in an influx of white collar and professional workers who can afford market rate housing. The pressures of this increased demand upon the City's limited housing inventory has created a speculative boom which impacts most heavily upon lower-income neighborhoods. Such neighborhoods are experiencing gentrification and thus substantial displacement.

Objectors have understandably looked toward the CDBG Program as a source of relief from these bleak conditions since the "primary objective" of the Program "is the development of viable urban communities by providing decent housing and a suitable living environment and expanding

economic opportunities, principally for persons of low and moderate income." 42 U.S.C.A. §5301(c). (Emphasis added.) See also 42 U.S.C.A. §§5304(c)(3); 5305(a). Not unreasonably, objectors have expected the City to utilize its sizeable block grant entitlement to check the economic forces which were driving them out of their homes and out of the labor market. Disappointingly, however, each year the City has allocated the bulk of its CDBG grant to urban renewal projects primarily focused on office and tourist related economic development and neighborhood revitalization efforts geared to the construction and/or rehabilitation of market rate or luxury housing. Rather than working towards a solution to the very serious problems faced by its lower-income population, the City appears to be an active partner in their creation and continuation. In fact, it would appear that the only difference between the strategy used by the private sector and that used by the City in its CDBG program is that the latter often leads the way in communities found to be unprofitable or politically infeasible by the private sector.

Objectors and other concerned citizens have attempted to redirect the City's CDBG Program through participation in the political process but have achieved only limited results. Objectors now file this complaint seeking remedial action from HUD to require the City's CDBG Program to effectuate its statutory purpose.

III. HOUSING ASSISTANCE PLAN (HAP)

The Housing and Community Development Act, 42 U.S.C. §5304(a)(4) expressly provides that no block grant shall be made unless the applicant submits a HAP which:

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons . . .

(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, (ii) the sizes and types of housing projects best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; . . ."

See also 24 C.F.R. §570.306(c) which delineates specific goals and standards for an acceptable HAP. Failure to comply with these standards is evidence that the activities to be undertaken are plainly inappropriate to meeting the applicant's needs and objectives and thus a basis for disapproval of the application. 24 C.F.R. §570.311(c)(2)(v). Furthermore, progress in achieving HAP goals must be evaluated by HUD to determine whether the recipient has made the requisite "substantial progress" in carrying out its approved program. 24 C.F.R. §570.909(e)(2); lack of such progress may lead to conditional approval of the application, 24 C.F.R. §570.311(f).

There are serious questions whether the City can meet any of these legal standards.

A. The City's Needs Assessment Relies On Obsolete Data And Thereby Fails To "Accurately Survey" Needs of Lower Income Persons.

As part of its needs assessment for the three-year strategy, the City stated that 82,456 (28%) of its total households were lower income and living under inadequate conditions. 1979 Applic., S.III., p. 30/36. Lower income

households that required housing assistance totalled 72,425, of which 98.4% were renter households. 79 Applic., S.VIII., p. 6/21. Major characteristics of the housing problem were that 78% were overpaying for their housing and 6.7% were living in overcrowded situations. Furthermore, the vacancy rate among multi-unit structures was calculated at approximately 2.25%, and the availability of affordable and suitable housing was deemed to be "very limited for the lower-income residents of the lower-income residents of the City." 79 Application, S.III., p. 30/36.

While the picture painted by this description is grim enough, it is based on data which is seriously outdated. It is primarily based on 1970 census data, and while it includes City initiated studies, the most recent of these is a City Planning Department study which updates the housing inventory and surveys rents for 1976. 79 Application S.III., p. 32/36. The needs survey does not reflect the dramatic changes in housing conditions which have occurred in the past four years, changewhich have received widespread public attention and which are relatively simple to document.[1] Indeed, the housing situation in San Francisco has reached such crisis proportions that the Board of Supervisors convened a Select Committee on Housing to recommend legislative remedies for the City's myriad housing

[1] E.g., the City Planning Department has carried out several surveys and studies of housing conditions, vacancy rates and rents during the period 1973-1976. One need only compare the median rents estimated from the 1976 rent survey (e.g., $178 for a 1 bedroom in the Upper Ashbury, $188 for the same in the Western Addition) to rents gleaned from today's classified advertisements to reach the conclusion that the data is severely outdated. Certainly the City has the capacity to update these studies to more accurately reflect the current housing conditions.

problems. Testimony at hearings convened by that Committee as well as all Community Development hearings reiterated the problems of rising rents, overcrowding, eviction, condominium conversion, displacement, and lack of housing opportunities for lower-income San Franciscans, and the housing crisis became a major focus of this year's election.

Despite all this, the City has failed to update its needs assessment and to adjust its strategy and objectives accordingly.

B. The City's Planned Housing Production And Goals Are Plainly Inappropriate To Meet Its Identified Needs.

Although complainant believes that the City's needs assessment underestimates the extent of lower-income housing needs, we contend that its planned housing production and goals are plainly inappropriate to meeting even the needs it identifies. We specifically question the City's emphasis on rehabilitation rather than new construction and the impact of the rehabilitation programs upon the lower-income residents they are intended to benefit.

Regulations governing development of goals for assisted housing specifically require that:

> "(A) In those cases where there exists a less than adequate vacancy rate (as determined by HUD) . . . resulting in an insufficient number of . . . units . . . to meet the identified housing assistance needs for rental units for lower-income households goals for housing assistance shall emphasize a program of new construction of rental units . . . §570.306(c)(1)(iv)(A) (emphasis added).

San Francisco's stated vacancy rate is 2.25% for multi-unit structures (79 Application, S.III., p. 30/36), far below

HUD's "trigger" rate of 5% for the City. The following recognized factors[2] would seem to strengthen the argument in favor of emphasizing new construction:

1. 98.4% of all households in need of assistance are renters;

2. Overcrowding and overpaying are deemed serious problems;

3. Much of the City's substandard housing is basically sound and only marginally sub-standard (and thus rehabilitating these units is unlikely to add additional rentable units to the housing market); and

4. The private sector finds it "more profitable to build market-rate condominium projects than Section 8 family projects." (GPR, 10-5-79, S.III., p. 5.)

Despite the regulatory mandate and the evidence cited above, the City has set goals this year for construction of only 1,100 new rental units, constituting only 23% of the total goals for housing assistance to renters. 1980 Application, HPA, Table V, p. 1.[3]

Not only has the City failed to emphasize a program of new construction, but the rehabilitation program it has emphasized is inconsistent with lower-income needs and has often had a harmful rather than a beneficial impact upon lower-income renters. We are not asserting that rehabilitation programs per se are inappropriate, but rather that the specific rehabilitation programs emphasized by the City do not meet the needs of its lower-income

[2] Unless otherwise indicated, conclusions are from the 79 Application, S.III., p. 30/36.

[3] The new construction goals of course represent a small percentage of the overall HAP production goals (21.9%), and an even smaller percentage of the total CDBG assisted housing program because the HAP projections do not include the substantial number of market-rate units that will be produced with direct CDBG assistance.

renters.[4]

While 10.2% of existing units are estimated to be substandard, much of the City's "substandard" housing is only marginally so. 79 Application, S.III., p. 30/36.[5] Since there is such an obvious need to increase the City's housing supply, it would seem logical for the City to focus its CDBG rehabilitation efforts on rehabilitating housing that is more than marginally substandard and on abandoned or clearly hazardous units, or on transforming other buildings to housing units, such as restorable, but abandoned, buildings. Moreover, in light of the dimensions of the overpayment problem (even by outdated estimates), it would seem reasonable to require strict income criteria, speculation controls, rent limitations and other measures to insure that such housing would indeed be affordable for income tenants.[6]

However, this has not been the case. Instead, the City's rehabilitation effort has been designed for homeowners rather than renters, has failed to focus on the most dilapidated housing stock, and with the exception of Section 8 and public housing projects, has not imposed

[4] Comments on specific housing programs are detailed below in IV. Housing Programs at p. ___.

[5] Again, these estimates are based on early 1970's data, and presumably the post-1975 speculative boom with its widespread private sector rehabilitation effort has reduced the number of substandard units.

[6] The City's program would appear to violate 24 C.F.R. §570.306(c)(1)(vi) which requires that in order to be included in HAP goals, substandard units, upon completion of rehabilitation, must be occupied by lower-income households. The City has no data to demonstrate that this is in fact the case in its non-section 8 rehabilitation units. An activity that fails to comply with §570.706(c) may be determined "plainly inappropriate" to meet identified needs. 24 C.F.R. §570.311(c)(2)(v).

effective income criteria or other cost controls. Thus, the rehabilitation program has been inconsistent with lower income needs in that:

1) It has produced very few newly available units to meet the housing shortage;

2) It has not significantly improved living conditions for lower-income renters since the bulk of the units renovated have either been owner-occupied or have been only marginally substandard;

3) It has exacerbated the overpayment problem, both directly through rent increases related to renovation costs and indirectly through raising property values and rent levels in areas undergoing rehabilitation; and

4) It has fostered displacement both directly through relocation forced by renovation work and indirectly through causing an increase in rents.[7]

Since the City's rehabilitation program was designed to meet the housing assistance needs of San Francisco's lower-income population, and past experience has indicated that the types of activities proposed have not been and are unlikely to be effective in meeting lower-income needs, the rehabilitation activities planned should be deemed plainly inappropriate. 24 C.F.R. §570.311(c)(2)(i).

[7] CDBG regulations specifically mandate that the City's housing strategy describe actions the City will take to assist low and moderate-income persons to remain in their present neighborhoods and to mitigate any adverse effects resulting from CDBG funded activities. 24 C.F.R. §570.304(b)(2)(v). As more specifically described under Rehabilitation Program, Section IV.A.4., infra, objectors contend that the City has both underestimated the extent of displacement resulting from CDBG activities, and overestimated the effectiveness of the mitigation tools it has utilized and/or proposed.

C. The City Has Failed To Make "Substantial Progress" In Carrying Out Its HAP Goals; Such Lack Of Progress Calls Into Question Whether Its Annual Goals For Housing Assistance Are Realistic.

The City's lack of progress in carrying out its HAP goals and its unrealistically ambitious annual and three-year projections have already been the subject of HUD's criticism and concern. In its 1979 Approval letter, HUD judged that "both the annual and three-year goals are very ambitious, and will require a much more intensive housing effort . . . if they are to be achieved." Letter of Steven B. Sachs to Dianne Feinstein, Approval of Community Development Block Grant Application, (HUD 1979 approval letter) 1/31/79, p. 2. HUD noted that the City's achievement of its HAP goals for rehabilitation with non-HUD resources would depend upon "much greater production than the City has achieved in the past," and expressed particular concern with regard to the City's inability "to locate sites and find developers for family housing in non-impacted areas,[8] to resolve the management problems of the Housing Authority to the extent that it will be capable of producing

[8] Pursuant to §570.306(a)(3), the City is responsible for the "timely achievement of all goals for assisted housing, and particularly those which address the needs of families and large families." (Emphasis added.) The City is required to "take all actions within [its] control to facilitate the implementation of an approved housing assistance plan including . . . the development of Section 8 housing when notifications of funding availability are not responded to by private developers." (Emphasis added.) HUD Handbook 6503.1, Reviewing and Processing Community Development Block Grant Entitlement Applications, March 29, 1979, (HUD Handbook), requires that HUD review performance toward meeting goals for renter families and large families with particular care (7-3.C, p. 7-2), and specifies that: "where recipients have meet only a small percentage of the goals [for these groups] relative to the provision of assistance to homeowners and elderly renters, its contract . . . should be conditioned by including firm schedules for specific performance. . . ." (HUD Handbook, 7-3.e, p. 7-3.)

new units and rehabilitating additional units, and to increase the capacity of the Property Conservation Office in rehabilitation of units." HUD approval letter, 1/31/79, p. 3. In its 1979 CDBG Program Monitoring Report, HUD criticized the City's progress in the Rehabilitation Assistance Program (RAP), and reiterated its concern about the lack of progress in acquiring housing sites. Letter of Steven B. Sachs to Dianne Feinstein, CDBG Program Monitoring Report (1979 Monitoring Report), 2/26/79, p. 2.

While it is very difficult to evaluate the City's progress in achieving its annual and three-year HAP goals on the basis of its Annual Grantee Performance Report (GPR),[9] several salient facts emerge:

1. While the City is projecting production of 1,100 new rental units in 1980, its total cumulative production of new rental units since 1975 is 1,543 units committed and 1,205 completed. In other words, the City is confidently projecting that it will produce nearly as many units in one year as it has completed in the past five years.

2. The City's housing production goal for 1980 totals 5,020 (1980 Application), whereas it produced only 2,547 committed units and 2,664 occupied units during the past

[9] The City's 1979 GPR reported cumulative housing assistance provided from 1975-1979, and reported this progress as of 7/31/79 (GPR, Oct. '79, Sec. III, p. 1),whereas the City's housing assistance goals are established for the three-year period of 2/1/79-1/31/82, and on the annual basis of 2/1/80-1/31/81. Thus, the GPR neither describes the City's actual annual production nor gives a meaningful measurement of its performance in relationship to the approved three-year goals. HUD should require the City to provide this crucial information because without it accurate evaluation of performance progress is virtually impossible.

five years (GPR, Oct. '79, Sec. III, p. 1.).[10] The City thus projects that it will produce almost double the number of units in 1980 as it has completed in all five program years.

These facts raise serious questions not only about the City's lack of substantial progress in carrying out its housing program as required by 24 C.F.R. §570.909(e)(2), but also whether the goals projected in the 1980 annual plan are "realistic annual goals" (emphasis added) within the meaning of 42 U.S.C. §5304(a)(4) and 24 C.F.R. §570.306(b)(4)(i).

This City's past performance raises further questions about its ability to carry out its ambitious housing plans for 1980. The City plans to greatly expand the geographic coverage of its housing programs by including two new housing intensive projects (Bayview North and Northeast Waterfront), by implementing major housing programs in existing NSA/NIA's where no housing development has yet been carried out (North of Market, Hayes Valley and Visitacion Valley), and by establishing a Citywide rehabilitation assistance program. The plans seem overly ambitious given the City's level of production in the past. Indeed, HUD's 1979 approval letter warned of the difficulty in carrying out all the activities necessary to result in comprehensive treatment within a reasonable period of time for the then-existing NSA's, strongly urged the City not to designate any

[10] The City claimed an additional 2,195 units which are not included in the above totals because these units were not the result of new construction or rehabilitation, but were existing, occupied units whose management capabilities were improved through HUD grants. (GPR, Oct. '79, III., pp. 1, 12.)

additional NSA's until it has clearly demonstrated that it will comprehensively treat its currently designated NSA's, and advised "against the use of CDBG funds for [a citywide housing rehabilitation program] until it is evident that the NSA's will be comprehensively treated." 1979 HUD approval letter, p. 2.

IV. HOUSING PROGRAMS

While the previous section of this complaint detailed complainant's objections to the Housing Assistance Program, this section will briefly address concerns about particular housing programs and present complainant's recommendations.

A. Rehabilitation Assistance Program (RAP); Housing Improvement Program (HIP), Citywide HIP, And Other Rehabilitation Programs Administered By the Bureau of Building Inspections (BBI).

While these programs are not identical, objectors' concerns are largely applicable to them all. In summary, these concerns include:

1. BBI may be using CDBG funds to maintain the City's regular code enforcement/inspection program. In defining the objective and purpose of the CDBG program, the regulations specifically provide that CDBG funds "not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance." 24 C.F.R. §570.2(c). This regulation embodies the clear intent that CDBG funded activities supplement rather than supplant city-funded community development activities. It would appear, however, that a majority of the City's total code enforcement staff (62 employees in

1979) has been funded through the RAP program alone. The RAP program requested funding for 42.5 positions in 1980, but included in this request 8.5 new positions (including 5 new inspector positions) for the North of Market Code Enforcement Program despite the fact that the program has failed to obtain the required legal approvals and financing for rehabilitation loans is not yet available. See Board of Supervisors Budget Analyst Report on Mayor's Proposed 1980 Community Development Program (1979 Budget Analyst Report) (10/5/79), p. 61.[11]

In addition, nearly 60% of all funds allocated for RAP are slated for BBI administrative costs. Finally, and ironically, given the performance problems, questionable benefit to low and moderate-income people, and unmitigated displacement the RAP/HIP programs cause, maintaining the City's code enforcement program may be the only goal these programs are able to achieve.

2. BBI programs are not cost effective and have a dismal performance record. HUD's 1979 Monitoring letter of 2/26/79 expressed two major concerns: "the large amount of funds budgeted for the program relative to the amount of costs actually obligated, and the number of rehabilitation loans made given the size of the RAP staff." 1979 Monitoring report, 2/26/79, p. 2. The letter went on to

[11] The Budget Analyst's recommendation to delete these new positions was not approved by the Board of Supervisors. The Budget Analyst's RAP recommendations are also interesting because they indicate the City's complacent attitude about its maintenance of effort requirement: ". . . based on the projected General Fund shortages for the 1980-81 fiscal year of $114 million and the anticipated need to fund CD eligible essential government services in CD areas, we recommend that funds for capital improvements not be approved. Budget Analyst Rep. p. 61 (emphasis added).

say: "[I]t is our judgment that the RAP program may be receiving more funds than can be justified by the amount of activity which has been occurring. In our opinion, the RAP program is not making the most efficient use of the funds at its disposal . . ." HUD's conclusions would appear to be justified since as of August 1979, BBI has been allocated $8 million and expended only $5 million. 1979 GRP, S.1. That $5 million expenditure leveraged only $3.2 million in RAP loans.[12] Considering cumulative program performance through February 1979, only 5.7% of the total target of 6,388 units in the two RAP areas had utilized RAP loan assistance. BII Progress Report, Feb. 1979.

In defending its lack of loan production, the City stated that "instead of comparing some of the available loan resources with the number of staff, we prefer to compare the completion of code enforcement with staff size."[13] OCD letter to HUD, 3/22/79. However, measuring completion of code enforcement does not dramatically improve the City's performance record. The BBI Feb. 1979 Progress Report indicates that only 20% of the target units had been brought up to code in its two RAP areas; the 1979 GPR indicates that from 1975-1979 only 76 units benefiting low-income households have been rehabilitated with RAP loans. 1979

[12] According to the HUD Handbook, S.5-6, p. 5-4, measures which have not been or are unlikely to be effective in alleviating the conditions they are designed to affect are plainly inappropriate. The specific example used is a rehabilitation loan program whose monitoring had indicated it to be ineffective in the volume of loans made. The Handbook concludes that such a program may be found plainly inappropriate if proposed in the current application.

[13] This comment by OCD would seem to bolster the conclusion asserted above that the City is more concerned with maintaining its code enforcement program than providing housing assistance to lower-income residents. FPR, S.III-A, p. 11.

BBI's program budget for 1980 is approximately $4.3 million including carryover from last year's allocations. To justify this large budget, the City has projected that approximately 1,400 units will be assisted in all RAP/HIP areas (over $3,000 expenditure per unit projected). This is nearly double the annual production BBI has been able to achieve in past years at similar funding levels. This would appear to be an unrealistic goal within the meaning of 42 U.S.C. §5304(a)(4).[14] Indeed, BBI's lack of cost effectiveness should render its programs plainly inappropriate to meeting lower-income needs, 24 C.F.R. §570.31(c)(2), and its lack of substantial progress in carrying out its goals should alone convince HUD to condition its approval of this year's application, 24 C.F.R. §570.910(b)(9).

3. BBI's rehabilitation programs (RAP/HIP) do not principally benefit low and moderate-income people. The City's 1980 application indicates that the City considers all of BBI's rehabilitation programs to principally benefit low and moderate-income people. 1980 Application, Project Summary. However, its two major programs, RAP and

[14] Not only is this goal unrealistic in relation to past performance, but over 1,000 of these units are projected for the North of Market RAP area which has yet to secure financing, casting further doubt on the accuracy of this projection.

HIP,[15] do not have income eligibility that limit the benefits of the project to low and moderate-income persons. 24 C.F.R. §570.302(d)(1). Low and moderate-income benefit status evidently depends upon compliance with §570.302(d)(2)(i) because these activities will take place in NSA's/NIA's where the majority of residents are low and moderate-income persons. However, "the mere location of an activity in a low- or moderate-income area does not conclusively demonstrate that a project benefits lower income persons." 24 C.F.R. §570.302(g)(6). Rather, the City must consider "the nature of the identified needs, the relationship of the project to meeting those needs, and the net effect of the completed project" in order to determine whether it will actually benefit low- and moderate-income persons. Ibid.; see also HUD Handbook, S.4-11c,, p. 4-15. Objectors contend that a serious consideration of these factors would lead to the conclusion that low- and moderate-income people are not the principal beneficiaries of the RAP/HIP programs -- indeed, they may be considered the victims of the programs.

a. Relationship of RAP/HIP programs to the needs of lower-income renters.

As previously discussed, the major need of lower-income tenants is additional, affordable dwelling units. The City has admitted that its rehabilitation programs "do

[15] Excluding citywide HIP which apparently does have income eligiblity criteria. But see comments regarding this program infra at p. 26. The City also distinguishes the RAP and HIP programs on the basis of financing mechanisms available for the rehabilitation work and lack of compulsory code compliance in the HIP program. These characteristics are, however, irrelevant to our concerns. From the perspective of the lower-income tenant, HIP retains all the problems associated with RAP.

not produce many new dwelling units," but maintains that they do "upgrade" the housing stock. Letter of Jim Johnson to Board of Supervisors, Oct. 5, 1979. In any event, upgrading units, many of which were only marginally substandard, does not squarely address the drastic need for additional rental units. In addition, rehabilitation programs may actually result in some units being taken off the housing market. Once a building has been renovated, its profitability is enhanced by condominium conversion or conversion from residential to transient (tourist) hotels. Both are phenomena that are occurring at a increasing pace citywide and would seem to be attractive in such RAP areas as the Upper Ashbury and North of Market NSA's. The City has adopted no controls limiting the conversion of residential hotels, and its condominium conversion ordinance, Ordinance 337-79, July 1979, will not seriously impede the conversion of units.

Since overpaying is so prevalent among lower-income tenants, an additional need is for affordable rental units. Objectors contend that by its very nature, rehabilitation raises costs and exacerbates an already serious overpayment problem for lower-income tenants. Rent stabilization guidelines are in effect in only a minority of RAP/HIP areas, but even these minimal requirements allow rehabilitation costs to be passed through to tenants. Moreover, the rent increase provisions apply only to units rehabilitated by RAP loans, and since most of the rehabilitation carried out as a result of the RAP/HIP programs is not carried out with City assistance, most tenants remain unprotected. The City does have a recently

enacted residential Rent Stabilization and Arbitration Ordinance,[16] but it is unlikely to be effective in controlling rents in RAP/HIP areas. First, the ordinance specifically exempts units in hotels (at least until occupied by the same tenant for 60 continuous days or more) (§37.2(k)(1)), owner-occupied buildings containing four or fewer rental units (§3.7.2(k)(5), and dwelling units in a building which has undergone substantial rehabilitation after the effective date of the ordinance (June 13, 1979) (§37.2(k)(7)). Thus, many units in RAP/HIP areas are not covered by the ordinance. Second, the ordinance allows rent increases to cover the costs of capital improvements and rehabilitation work (§37.7). Most importantly, it exempts vacated units from controls (§37.3), and permits evictions to carry out rehabilitation work or capital improvements (§37.9(a)(11)(12)). In addition, there are only minimal controls on speculation; increased debt service may justify a rent increase unless the sale takes place within two years of the previous purchase (§37.8(b)(3)(C)(1)). Finally, the ordinance expires September 12, 1980 (§37.12).

The City does not deny that its programs result in rent increases, but rather argues that rent increases in program

[16] It is noteworthy that the specific legislative findings which justified this ordinance include: "(1) There is a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor. (2) Tenants displaced as a result of their inability to pay increased rents must relocate but as a result of such housing shortage are unable to find decent, safe and sanitary housing at affordable rent levels . . . This situation has had a detrimental effect on substantial numbers of renters in the City, especially creating hardships on senior citizens, persons on fixed incomes and low and moderate income households." Residential Rent Stabilization and Arbitration Ordinance, S.F. Administrative Code, Chapter 37, §37.1(b).

areas are not as high as those citywide. In support of its contention, the City cites studies of FACE areas between 1966 and 1971 (Letter of Jim Johnson to Board of Supervisors, Oct. 5, '79, p. 12). Query what relevance even 1971 statistics on rent increases has on today's rental market? Moreover, three of the four FACE areas were predominantly homeowner occupied, and the fourth was already a high-rent area.

b. Net effect of the completed project.

The City seems to base its defense of the RAP/HIP programs on the fact that they "increase the existing supply of standard housing" (letter of Jim Johnson to Board of Supervisors, Oct. 5, '79, p. 14). In commenting on the RAP program, the City stated that it "is currently focusing on areas where there is a preponderance of multiple unit buildings and it is assumed that primarily rental units are benefiting [at] this time." 1979 GPR, S.III., p. 3 [Emphasis added]. The focus on "units benefiting" is misplaced; the proper inquiry is whether lower-income people are benefiting. While a RAP or HIP area may have been predominantly lower income on the basis of the admittedly outdated 1970 census, the program cannot be counted as principally benefiting lower income persons where it results in a "change in the income characteristics of the area so that a majority of the ultimate beneficiaries are higher income people." 24 C.F.R. §570.302(g)(6). (Emphasis added.) Objectors argue that this is precisely what is occurring in RAP/HIP areas.

The RAP program's impact in the Upper Ashbury is illustrative. While the 1970 census data may indicate a

preponderance of lower income residents,[17] the area has undergone rampant speculation, and the resultant cost increases (both for purchase and rental) have driven out most of its low and even moderate-income residents. The area may indeed have been "upgraded" and "improved," but in the process it has lost its lower income residents. While the City has not undertaken any studies to update its data for the Upper Ashbury, we urge HUD itself to undertake or to require the City to undertake a brief survey of current purchase prices and prevailing rents as well as a walking tour of the area. We are confident that this will demonstrate that costs are well above levels affordable by lower-income people and, therefore, that displacement has drastically reduced the former lower-income population.

HUD must not allow the City to rely on a lack of data to justify its position that displacement is not taking place. In fact, HUD has already mandated that the City collect detailed data on the beneficiaries of rehabilitation programs carried out with CDBG funds, thus placing the burden of proof on the City. The information to be collected includes:

-- the incomes of all loan recipients

-- the incomes of all tenants, both prior to and after rehabilitation

-- the rents paid by tenants prior to and after rehabilitation

[17] Objectors do not concede that the area was indeed lower income at the inception of the RAP program, but only that the 1970 census data does so conclude. Even prior to the inception of the RAP program, the income characteristics of the neighborhood had drastically changed. Unfortunately, there is no data to substantiate this observation with which anyone familiar with the area would agree.

-- the location, income and rents of all displaced tenants.

(HUD's 1979 Monitoring Report, 2/26/79, p. 3). Despite this firm mandate, the City has yet to collect the data.[18] One can only conclude that the City is reluctant to provide data that will demonstrate that its rehabilitation programs cause displacement and do not benefit lower-income persons.

4. The City has failed to take appropriate steps to mitigate displacement and other hardships imposed on lower-income people by the rehabilitation programs. 24 C.F.R. §570.302(h).

While the City has denied that its programs cause displacement, its Communitywide Housing Strategy enumerates four mitigation measures it will utilize. 1979 Application, S.IV. 59-60/66. These measures are patently inadequate. The first, using Sec. 8 Housing assistance payments, is the most important,[19] but it has proven to be ineffective because landlords in this high demand market can receive rents far in excess of that program's limitations. In addition, in gentrifying areas, rent subsidy certificates mark the bearer as "low income," and many landlords consider such potential tenants undesirable. The City admits the Upper Ashbury landlords' lack of interest in the program, and asserts that if no proposals are forthcoming by March,

[18] The City's failure to provide the requested data, alone, is grounds for a finding that the rehabilitation programs are plainly inappropriate since the proposed program does not "reflect previous requirements of the Secretary for corrective or remedial actions. . . ." 24 C.F.R. §570.311(c)(2)(vii).

[19] See letter of Robert P. Cunningham to the San Francisco Lawyers' Committee for Urban Affairs in response to comments filed on the 1979 application, 1/31/79, pp. 5-6, in which HUD asserts that the Sec. 8 program is the most important measure to minimize displacement and keep rents down.

1980, the City will request some other use for the units reserved for this NSA. 1980 Application, S.III., p. 6. It does not, however, propose a substitute plan to mitigate displacement. The second measure is the provision of relocation assistance, but this program, too, is underutilized because it is not well advertised, is notoriously slow, inefficient and ineffective, and usually steers tenants to less adequate and higher cost housing, or merely places them on long public housing waiting lists. Moreover, relocation assistance, while laudatory, does not mitigate displacement -- only the hardship it imposes. The remaining measures involve monitoring the limited Rent Stabilization Guidelines, which also does not mitigate displacement, and the "phasing in" of rehabilitation, which presumably does not prevent displacement, but merely delays it.

In its commentary on the City's proposed 1980 rehabilitation programs, ABAG expressed concern about potential displacement and specifically recommended that RAP funds be released contingent upon the City's "adopting measures to limit displacement of low and moderate households following resale of rehabilitated units." ABAG A-95 review comments, 1980 Application, S.V., p. 5. The City has adopted no such speculation control measure.

5. The City's Citywide HIP program is of questionable eligiblity since it is not limited to NSA's or NIA's to areas which are deteriorating or deteriorated, or to areas in which such enforcement along with public improvements and other services may be expected to arrest the decline of the area. 24 C.F.R. §570.202(e). The HUD Handbook provides

that eligibility should be questioned when a code enforcement program "covers such a large area that it appears to constitute a normal city code inspection effort, rather than part of a comprehensive approach to upgrading an area." HUD Handbook, S.4-7, p. 4-13.

To summarize, BBI's rehabilitation programs are plainly inppropriate to meeting defined needs, are not of demonstrable benefit to low and moderate income persons, particularly lower-income tenants, and have a less than adequate performance record.

B. The San Francisco Redevelopment Agency (SFRA) Urban Renewal Programs In The Western Addition And Hunters Point.

In 1980, the City proposes to utilize $8,041,307 or almost one-third of its total CDBG entitlement for the completion of previously approved urban renewal projects. The Western Addition and Hunters Point urban renewal allocations alone account for approximately 28% of the total entitlement. While such usage might be permissible under governing CDBG regulations, 24 C.F.R. §570.302(e)(3),[20] generally such activities are considered to be eligible for funding as projects which prevent or eliminate slums or blight, and cannot be considered to principally benefit low and moderate-income persons unless they additionally meet the definition embodied in 24 C.F.R. §570.302(d). 24 C.F.R. §507.302(g)(4).

[20] Objectors serious question HUD policy which would permit the expenditure of scarce CDBG resources to fund market rate housing and other activities that would otherwise be ineligible but for the "completion of urban renewal" category. It would seem to contradict HUD's policy with regard to economic development projects, which disallows funding when favorable market conditions and high potential for profit are sufficient to stimulate private development.

The 1980 Project Summary submitted by the City indicates that the entire "completion of urban renewal" allocations for both the Western Addition and Hunters Point have been placed in the benefit to low and moderate-income category, yet the City has provided no documentation of how this conclusion was reached. Although each urban renewal project is located within an NSA, the majority of whose residents may be low and moderate income, the mere location of the activity in such an area does not "conclusively demonstrate that a project or activity benefits lower income persons." 24 C.F.R. §570.302(g)(6).

In fact, the description of anticipated 1980 accomplishments for the A-2 Project includes, inter alia, such diverse activities as property acquisition, rehabilitation, site clearance, site improvements, property management, interest payments, and legal services; the Hunters Point Project similarly includes site improvements, inspection services, property management, and interest costs. Each one of these activities should be analyzed to determine its ultimate beneficiaries, and until proper documentation is provided, they should not be considered to principally benefit low and moderate-income people. Objectors contend that a careful analysis will conclude that many of the redevelopment activities (and thus much of the CDBG redevelopment budget for these areas) do not principally benefit low and moderate-income income people. For example, the Agency is currently concentrating its housing production efforts in these areas on market rate construction, since HUD has determined they are impacted areas and has restricted approval of further assisted units until the imbalance is corrected. Funding

related to market rate housing production certainly cannot be considered to benefit lower income persons.

The Agency projects that in the Western Addition, counting work in progress in 1979, it will have completed 417 new lower income units and 859 market rate units at the end of 1980. It will also rehabilitate 1,030 units, which, based on past performance, will be mostly market rate.[21] Letter of Jim Johnson to Board of Supervisors, Oct. 5, '79, p. 24. It thus appears that only 18% of the Agency's two-year housing effort is directed at lower-income needs. In Hunters Point, the Agency projects for 1980 starts/completions of 300 lower-income units and 223 market rate units; thus 57% will be aimed at lower-income persons. However, both projections may be substantially lower since HUD impaction restrictions may reduce approved allocations for assisted units. Similarly, all other project activities must be scrutinized to determine whether they truly benefit lower-income persons.

In addition to concerns about whether these projects benefit lower-income persons, objectors also question their appropriateness, given their extremely high administrative cost and the Agency's questionable ability, based on past performance, to meet production projections. The Budget Analyst pegged Agency administrative costs as a percentage of project activity at 52.9% in 1979 and 48% in 1980. These high administrative costs do not even include personnel and

[21] The SFRA rehabilitation programs raise many of the same concerns regarding ultimate beneficiaries, displacement, and cost efficiency discussed supra in our discussion of BBI's programs. The arguments need not be repeated here, but HUD should bear them in mind in reviewing and evaluating the programs' eligibility.

overhead costs which are charged to direct project activities. The appropriateness of a project which allocates such a disproportionate amount of the yearly budget to administrative costs as opposed to project activities must be questioned, and the legality of considering such expenditures necessary "completion of urban renewal" costs must be considered. It would appear that the bulk of administrative costs simply fund the continuation of SFRA rather than the completion of urban renewal, and thus may not be eligible for funding.

The Agency's performance projections compared to its past performance is equally troublesom. In the one-year period ending July 31, 1979, the Agency started/completed construction and rehabilitiation work on 830 units in the Western Addition (79 GPR, Sec. 1, p. 6), yet the 1980 Western Addition allocations are based upon a start-completion projection of 1,774 units. (Jim Johnson letter to Board of Supervisors, 10/5/79, p. 42.) Similarly, the Agency's one-year effort in Hunter's Point consisted of the start up of 125 units (79 GPR, Sec. 1, p. 6), while its 1980 allocations are based upon a start/completion projection of 523 units (Johnson letter, p. 42). It would thus appear that based on past performance, less than half of the SFRA

projections can realistically be achieved.[22]

To summarize, since the urban renewal projects in these two areas are currently predominantly oriented to market rate housing and related physical improvements, 82% of the Western Addition allocation and 43% of the Hunters Point allocation should not be counted as being of low and moderate-income benefit unless and until the City can demonstrate that the funded activities indeed benefit lower-income people. Moreover, its excessive administrative costs and questionable performance should lead HUD to conclude that the programs are plainly inappropriate to meeting lower-income needs.

C. Yerba Buena Center (SFRA)

In a recently released report, "Summary of Housing Production During 1980," the SFRA takes credit for the projected completion of 793 units of low and moderate-income housing. It would appear that this is cited in part to justify 1980 allocation requests for marketing activities in YBC which, presumably, will include housing. While the housing is indeed within the YBC project area, it is very deceptive to use its production as a justification for CDBG funding for the SFRA since the units in question have been

[22] The City has failed to directly respond to allegations of the Agency's cost effectiveness and relatively low productivity. Instead, it points to the 11,795 units produced overall. This defense does not take into account the fact that the Agency does not produce housing, it simply clears land and makes it available to private developers. For example, a portion of the market rate units projected for Hunters Point and claimed by the Agency will, in fact, be developed by the separately funded Bayview Hunters Point CDC. It also does not explain that the Agency's production was spread over a 23-year period, required at least $314 million in federal funds and $43 million in local fund matches and includes 6,479 units of market rate housing.

developed by separately funded entities, Tenants and Owners Development Corp. and the San Francisco Housing Authority. The SFRA provides only the land, which was paid for and prepared years ago through urban renewal funds. A similar criticism can be lodged at its claim for an additional 165 low-to-moderate elderly units scheduled to start construction during the 1980 CDBG program year. Jim Johnson letter to Board of Supervisors, 10/5/79, p. 42. The Agency may in fact develop some housing within the area. However, its production goals are aimed at market rate housing and, after 13 years, none is yet under construction. HUD must carefully review the SFRA's 1980 YBC budget request to insure it includes no funding for housing activities which cannot be justified.

D. Northeast Waterfront (NEWF)

In approving the City's 1979 CDBG Program, HUD approved a $414,064 expenditure for the planning and development of an economic revitalization plan for the Northeast Waterfront Project. The activities approved by HUD include conducting surveys and studies to determine the feasibility of a redevelopment project and, if feasible, preparing a redevelopment plan. Although the project might eventually relate to housing, commercial, recreational, maritime, industrial and open space facilities, funding was approved only for planning and specifically not for any of the potential activities. Among the activities listed by the City to be accomplished in 1979 include "undertaking public hearings and securing official approval of the redevelopment plan and related documents." 1979 Application S.VII, p. 3/4. The 1979 GPR reviewed some of the planning

activities which had taken place through July 1979 and indicated that the next steps to be taken were preparation and approval of a series of implementation documents including:

1. A Total Design Plan for the pier 7-24 area (required by BCDC);
2. revisions to the City Planning Commission's Plan for the Northeastern Waterfront;
3. for redevelopment areas, a Preliminary Plan, a Redevelopment Plan, and a Report on the Redevelopment Plan; and
4. Environmental Impact Reports/Statements as appropriate (and required).

1979 GPR, S.I. Progress on Planned Activities, p. 26-27. Although the City requested only planning funds for 1979, throughout the Three Year Plan it referred to the Northeast Waterfront as an economic development activity. (See, e.g., 1979 Application, §S.IV 65/66). And, despite the fact that it has not yet completed the planning activities set forth in the 1979 Application, the City's 1980 Application has allocated nearly $700,000 to the SFRA[23] to "remove the existing blighted land uses and develop 2,600 units of mixed-income housing, retention (sic) of existing maritime industry, major open spaces providing access to the water's edge, restoration of buildings of historic interest, a small boat harbor, and a limited amount of commercial recreation, a hotel complex and office space." 1980 Application, S.II.

[23] It has also specifically provided for SFRA access to $600,000 of the site acquisition pool (1980 Application, S.II. Project Summary, p. 33/33) with the express understanding that these funds may be used for NEWF site acquisition activities.

Project Summary, p. 28,33. The 1980 Application's description of the NEWF program shifts its emphasis from an economic development program to one whose "predominant feature" is the development of mixed-income housing.

The City's proposal is shockingly premature. Not only has the City failed to complete the planning activities which it itself described as necessary, but it has also failed to conduct public hearings and obtain necessary Planning Commission, Bay Conservation and Development Commission, and Board of Supervisors approval. The area has neither been designated as an NSA/NIA, nor as an Urban Renewal Project Area by the Board of Supervisors; it has simply been designated as a survey area in order to determine the feasibility of improvement. Funding the proposed activities at this premature stage in the proceedings would violate the democratic processes established for projects which will so significantly affect the future course of San Francisco's development.

Since the City has not listed the NEWF expenditures in the low/moderate income benefit category, it is evidently basing its elibility on its characterization as a project aiding in the prevention or elimination of slums or blight. Such projects must be in an area which is a slum, or a blighted, deteriorated, or deteriorating area, as defined by state or local law. 24 C.F.R. §520.302(e)(1). The City has made no showing that the NEWF Project meets this criterion. Furthermore, the City must undertake a comprehensive strategy to remedy the conditions. Ibid. Such projects must meet the criteria for Neighborhood Strategy Area programs, as defined in 24 C.F.R.

§570.301(c). HUD Handbook, S.4-12.b, p. 4-18. The criteria for a neighborhood strategy area are quite rigorous to meet. The area must be selected and designated in the applicant's three-year Community Development and Housing Plan for a program of concentrated development activities. 24 C.F.R. §570.301(c) (emphasis added). The NEWF was designated only as a planning activity in San Francisco's three-year plan. In addition, the three-year plan must include the City's comprehensive strategy for the area which, inter alia, provides "sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time." 13 C.F.R. §570.301(c)(3). The City has simply failed to provide sufficient information upon which to base a determination of this project's eligibility.

Finally, the NEWF Project proposal violates CDBG regulations regarding planning and implementing multi-year projects. Section 570.301(d) provides in pertiment part:

> (1) An applicant may allocate funds in an application for the payment of part of the cost of a multiyear project . . ., provided the full scope and estimated cost of the total project is described in the first application in which grant funds are allocated for the project. (Emphasis added.)

The Three-Year Project Summary submitted with the 1979 Application indicates zero expenditures in each of the three program years for the Northeast Waterfront Survey Area. 1979 Application, S.I. p. 2/2. The 1980 application simply indicates a $673,615 allocation for this year. Yet, the scope of the proposed project is enormous, dwarfing the Yerba Buena Center project and encompassing upwards of $73.7 million in public funds alone. The City's application

perhaps intentionally obscures the dimensions of the proposed project because it is not yet ready to provide the required documentation. It hopes, instead, to slide approval of this project through on the coattails of the City's notorious housing crisis.

The NEWF project should be deemed ineligible by HUD since the planning and approval process is not yet complete, the City has failed to meet the criteria delineated for approval of projects designed to prevent or eliminate slums and blight, and the proposal does not comport with the requirements for multiyear projects. Should these conditions be met, approval should require staging and scheduling activities and targeting of CDBG resources to insure that the priority need for low and moderate income housing is met as quickly as possible.

V. ECONOMIC DEVELOPMENT

A. Analysis of Needs.

Widespread unemployment and underemployment is the single most important economic problem facing San Francisco's low and moderate-income population. Next to housing, the need for jobs was identified as a priority concern by substantial community testimony at public hearings held during the development of the 1980 CDBG Plan.

The City's description of economic development needs in its Summary of Community Development and Housing Needs recognized the extent of this problem. It described the City's changing composition as a result of the City's more affluent white families moving to the suburbs, and the consequent concentration of "the poor, the elderly, and the ethnic minorities who may be disadvantaged by inability to

speak English, low educational achievement, lack of job skills, and chronic unemployment and underemployment." 1979 Application, S.III., p. 34/36. It also describes the City's changing economic base which "is experiencing a shift . . . from production activities . . . to office employment. It means a changeover from a balanced blue-and-white collar employment market to a market emphasizing finance and administration and services which depend increasingly on a highly trained (often non-resident) labor market." Ibid. Statistics recently released by San Franciscans for Reasonable Growth dramatize the extent of this shift. Their calculations indicate that between 1960 and 1975, 96,000 new office jobs were created in downtown San Francisco, but during that same period the number of employed San Franciscans dropped from 341,000 to 327,000. San Francisco lost 12,000 manufacturing jobs, 14,700 jobs in the wholesale and retail trade, and over 12,000 port-related jobs. Furthermore, in a city where almost 50% of the population is non-white, only 8.2% of the jobs in offices are filled by non-white City residents.

The result of these two trends has meant a chronic unemployment problem for San Francisco, with a yearly average over the past ten years between 1.1 and 1.9% higher than the national average. According to 1970 census data, the unemployment rate in some districts was as high as 16.9% for whites, 21.9% for blacks, 12.1% for other races and 23.6% for Spanish speaking. Blacks, women and teenagers consistently had the most trouble finding jobs. 1979 Application, S.II., pp. 34-36.

Clearly, then, the predominant economic development

need is for increased, permanent employment opportunities for San Francisco's lower income population. All economic development activities proposed for CDBG funding must be analyzed for their appropriateness to meeting this identified need. They must place their major emphasis on fostering low skill/blue collar, longterm employment, and an intensive training, placement and affirmative program, to insure that the maximum employment benefit accrues to lower-income residents, particularly minorities, women and youth. It would also appear to be evident that office, tourist and related service developments are a cause rather than a solution to the employment problems of lower-income persons and should not be encouraged with CDBG funds. To the extent that such projects are developed as part of previously approved urban renewal projects, the City must require assurances that the projects will in fact result in permanent employment opportunities for low-income persons and minorities by requiring, for example, developers to commit to a long-range employment program, involving training, affirmative action and access to entry and promotion-level employment opportunities. It is simply insufficient to point to the number of short-term construction jobs which will be created (even if an aggressive affirmative action program is successfully employed) or to consign the unemployed to janitorial, hotel maid, and parking lot attendant positions.

B. The City's Proposed Economic Development Program.

The City's economic development program is difficult to analyze simply because it is difficult to identify. The 1980 Application lists as "Specially

result in the creation of new permanent jobs." 1980 Application, S.II., p. 28/33. In addition, the 1980 Preliminary Plan includes the funding for the Economic Development Council as an economic development activity, but it is not so identified in the 1980 Cost Summary. Thus, it is difficult to ascertain the true dimensions of the City's economic development plan. One wonders whether this lack of clarity is intentional -- how can the City's proposal be criticized or even analyzed if it cannot even be clearly identified?

Objectors seek to assure that CDBG supported economic development activities benefit lower-income residents -- whether such activities are labeled economic development, completion of urban renewal, elimination of slums and blight, or even administration. Each should address the City's primary economic development goals including: "The continued reduction of substantial levels of unemployment and underemployment in the City's five poverty target areas" and development and implementation of public investments that will stimulate "increased job opportunities among the unemployed and underemployed." 1979 Application, S.III., p. 62/66. We thus address our comments to those activities which are "economic development" in character -- i.e., activities which support commercial or industrial development -- regardless of the City's labeling in the final 1980 Proposal.

1. Bayview North Industrial Development (SFRA).

This new project to be carried out by the SFRA is described as a "redevelopment-rehabilitation program" designed to encourage new industrial development, arrest

deterioration in the industrial area, provide for revitalization of commercial properties on Third Street, and "retain and expand upon permanent industrial jobs in San Francisco." 1980 Proposed CD Program and HAP, Sept. 1979, pp. 15-16. Funding requested for this year is $1,022,706, with anticipated accomplishments to include: site acquisition (12 lots and 3 developed properties); rehabilitation of approximately 20 industrial structures; property management for SFRA property; relocation benefits; site clearance; public improvements; and property disposition. 1980 Application, S.II. Project Summary, p. 10/33.

CDBG funded economic development activities must generally meet the criteria of 24 C.F.R. §570.203 which provides in pertinent part:

> The applicant shall provide HUD with a description of the activity, and of the relationship to the applicant's strategy for economic development. In authorizing activities, HUD will take into account the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons (Emphasis added.)

The City's application does not sufficiently demonstrate the relationship between the proposed Bayview North development and the City's overall economic development. In addition, other than asserting that permanent industrial jobs will be retained and expanded, the City has in no way indicated the number of long-term jobs to be generated or how it intends to insure that these jobs will be accessible to low- and moderate-income persons.

Since the project is characterized as benefiting low- and moderate-income persons, it must also meet the requirements of 24 C.F.R. §570.302(d)(2)(iii). Under this

standard, the majority of the permanent jobs created must be for low- and moderate-income persons. In determining whether this standard can be met, HUD must consider at least the following factors:

> "(a) skill level requirements of jobs to be created or retained;
> (b) expected pay scale of such jobs;
> (c) proximity of such jobs to lower-income neighborhoods;
> (d) accessibility of such jobs to public transportation;
> (e) degree of unemployment or underemployment in the community, especially among unskilled or semi-skilled persons;
> (f) plans for advertising or other recruitment aimed especially at lower-income persons, associated with creation of such jobs; and
> (g) special training programs, . . ., aimed at lower-income persons and likely to be used to prepare these persons to qualify for such jobs."

HUD Handbook, S.4-14(3), p. 4-19. None of these factors have been addressed in the City's application, and without them, a determination of the project's eligibility is impossible.

2. Yerba Buena Center (YBC).[24]

The 1980 Application allocates §583,198 for the YBC Redevelopment Project and categorizes the expenditure as "completion of urban renewal," thus attempting to secure its eligibility on 24 C.F.R. §570.302(e)(3). The regulations strictly condition any permission for funding the cost of completing an urban renewal project with block grant moneys.

First, an urban renewal project means a project "being carried out . . . under a contract with HUD. . . ." 24 C.F.R. §570.800.

[24] See discussion of YBC housing activities, supra, at p. 31.

Second, the regulations limit the use of block grant funds for such projects to

> "(1) Payment of the cost of activities approved under the HUD contract for the project with respect to which the budgeted project funds are insufficient and non-cash local grants-in-aid which either (i) were included in a HUD approved urban renewal financing plan dated prior to August 22, 1974, and which are required to effectuate project completion and financial settlement, (ii) are otherwise eligible under Subpart C. . . ."

and to

> "(2) Repayment of temporary loans." (Emphasis added.)

From the scanty description of project activities outlined in both the 1979 and 1980 applications it is not possible to determine whether such activities were, in fact, included in the HUD contract. The 1979 GPR indicates that the SFRA in July, 1979, adopted a Redevelopment Plan amendment to implement a variety of changes in the proposed project. Query whether these amendments have been incorporated into the existing HUD contract, since it would appear that all CDBG-assisted activities which are not "approved under the HUD contract" must meet the eligibility criteria under Subpart C of the regulations.

Objectors contend that placement of the YBC Project in the "completion of urban renewal" category should not obscure the basic fact that it has been designed, implemented and touted as the City's major economic development project. As such, the City must prove its appropriateness to meeting defined economic development needs. We believe that the City is unable to do so.

The entire project is built around and designed to sustain and promote a convention center. Indeed, the 1979

GPR indicates that "a large part of the Agency's activity (during the year ending July 1979) was related to the development of the George R. Moscone convention center." (1979 GPR, S.I., p. 24) Thus much of the City's CDBG-funded YBC activity is directly related to the development of a convention center, a use which is specifically declared ineligible. 24 C.F.R. §570.207(a)(2)(i). In addition to the convention center, the project anticipates developing substantial office enterprises and related commercial operations, tourist entertainment facilities, one or more hotels and market rate housing. Of the development during the 1979 program year (see GPR, S.I., p. 24-25), only the Community College facility appears to be of potential benefit to lower-income people. The remainder of the 1979 activities suffer from the same deficiencies as other office/commercial developments. First, expenditure of CDBG funds for such development is not necessary to accomplish proper economic development objectives. The HUD Handbook specifically provides that

> . . . if economic development activities are proposed on the basis that they are necessary to encourage private development or make a particular development feasible, when in fact the development will occur without such assistance because of very favorable market conditions and high potential for profit, the approval of that activity should be questioned.
>
> HUD Handbook, §4-4.c, p. 4-7.

It should be quite evident from the continuing boom in private sector office and tourist developments that they require no incentives and have sufficient private capital available. Usage of CDBG funds to subsidize such developments in such circumstances is plainly inappropriate

to meeting defined economic development needs.

Second, the nature of the development is unlikely to produce long-term permanent employment opportunities for lower-income San Franciscans. Objectors note that the 1980 plan includes approximately $150,000 for an affirmative action program. While we applaud this modest effort, we recognize that this project will have unprecedented success if it can achieve its goals for the short-range construction jobs associated with the project. It is in no way equipped to deal with the more difficult and problematic situation of creating and securing jobs for lower-income San Franciscans in an office/commercial labor market for which they are unskilled and untrained. In fact, YBC's impact on employment is open to considerable debate. The City's three-year strategy estimates that YBC would produce 4,634 new permanent jobs (79 Application, S.IV., p. 66/66), while the Environmental Impact Statement estimated 34,000 new permanent jobs. Letter of Jim Johnson to Board of Supervisors, 10/5/79, p. 16. The rather substantial difference between these two projections casts serious doubts on the accuracy of the City's projections regarding job production. Moreover, regardless of the actual number of jobs to be created, there is no indication that any of these jobs will be actually accessible to lower-income residents. In fact, from the nature of the planned economic developments it is safe to project that very few jobs will be accessible to lower-income City residents and that most of these will be in low-paid, dead-end categories.

3. Mayor's Office of Economic Development -- Economic Development Council (EDC)

The 1980 Application allocates $200,000 to the Mayor's Office of Economic Development. Although that category was identified as an economic development activity in the 1980 Preliminary Proposal, it was transferred to the "General Administration" category by the time the final application was submitted to HUD. The EDC was perhaps the most controversial proposal during the development of the 1980 program. Both the economic development subcommittee and the entire Citizens Committee on Community Development had great difficulty ascertaining the EDC's specific plans, economic objectives, and ultimate impact on lower-income people. The EDC was also the subject of much criticism during all the public hearings held on the CD Plan. Possibly as a consequence of its controversial nature, or perhaps as a means of attempting to avoid meeting the criteria for economic development projects or the low- and moderate-income benefit test, EDC's allocation was transferred and left unidentified as a general administrative expense. Objectors submit that HUD must not permit the City's "accounting procedure" to exempt the EDC from scrutiny under the appropriate regulations.

The EDC is an economic development activity and has promoted and defined itself as such. In its 1980 proposal for community development funding, the EDC defined its goal as "increased job opportunities for low and moderate income people and increased tax revenues for the City." S.F. Economic Development Program of the 1980 Community Development Program, Sept. 1979, p. 2. The 1980 CDBG Program Budget includes program and administrative funding for four major activities: (1) Neighborhood Commercial

Revitalization, (2) Urban Development Action Grant Program, (3) Business Revitalization Loans, and (4) Central Waterfront Project. Ibid., p. 16. Each of these activities should be scrutinized for conformity with governing regulations.

a. Neighborhood Commercial Revitalization.

Eligibility for such programs is limited to those which are "designed to attract or retain commercial facilities which provide essential services to residential arreas which have a majority of low- and moderate-income residents." 24 C.F.R. §570.302(d)(2)(ii). (Emphasis added.)

Approximately one-half of the EDC's administrative allocation is designed for this activity, as well as $300,000 for capital investments of public improvements and facade improvement loans. While the areas proposed for this activity appear to be lower-income neighborhoods, there is no assurance that the program's benefit will be directed at "attracting or retaining" commercial facilities which provide "essential services" to lower-income areas. In fact, the danger inherent in such a program is that such improvements as street trees and facade renovations only serve to enhance the value of the commercial property, contribute to commercial space speculation and concommitant increased rents, and thus to ultimately force out marginal small businesses that do provide necessary goods and services to neighborhood residents.

Funding for this activity must be conditioned until the City can demonstrate that the requirements of §570.302(d)(2)(ii) are met and that mitigation measures such

as speculation control are provided to ensure that "mom and pop" grocery stores are not driven out to afford space for boutiques and other transient commercial activities in the newly revitalized commercial strips.

b. Urban Development Action Grant (UDAG).

Funding for development of UDAG grant proposals is an eligible administrative expense. 24 C.F.R. §570.206(f). However, it is unclear whether the City's funding for the Mayor's Office of Community Development includes this responsibility. Should further investigation prove there is no duplication of effort contemplated, funding for this EDC activity can be approved.

c. Business Revitalization Loan Program.

EDC is requesting approximately one-third of its annual budget for the business revitalization loan program (SBA 502 program) and an additional $370,000 to be used as local share requirements for the small business revitalization loans. Objectors have no quarrel with this program; it appears to be eligible for funding, is tied to NSA's/NIA's in which a majority of low- and moderate-income people reside and has apparently resulted in the creation of new jobs. According to EDC projections, of the 9 projects being evaluated by May 1979, four are minority-owned firms. The local share is anticipated to leverage $7,981,716 of private investment and retain 233 jobs. EDC 1980 CDBG Proposal, p. 28. We do, however, question the necessity for EDC involvement in this program. The City is already utilizing the CDBG program to fund several local development corporations. These corporations are community based and controlled and designed to best serve their local

community's interest. They already have the responsibility of loan assistance and packaging, and it is unclear why additional funding is necessary for the EDC. We believe funding EDC for this activity, which is performed by local development corporations, would amount to a duplication of effort which would be plainly inappropriate to meeting lower income needs. We further question EDC's request that all interest earnings, fees, penalties and other returns from the CDBG revolving loan fund be made available for use as an EDC administrative expense. The regulations provide that such program income be retained by the City and used to finance the approved program. See 25 C.F.R. §570.506(c) and §570.203(b)(1). It would appear that the program income referred to in EDC's request should be utilized for the function for which it was approved, i.e., loan distribution, rather than EDC administration.

d. Central Waterfront.

The remainder of EDC's allocation (approximately one-third) is targeted for the Central Waterfront Project. Tasks to be included are:

1. Central administration of Central Waterfront Project, including planning, design, implementation, and community liaison.

2. Management of $1.1 million EDA Title IX revolving loan fund which will leverage $11.0 million in additional capital investment.

3. Project planning and implementation related to Showplace Square expansion program. This program to involve $15 million in private investment and $1.9 million in public improvement.

4. Coordination with community organizations and businesses in the project area.

S.F. Economic Development Program of the 1980 Community Development, Sept. 1979, p. 34. There is no dispute about the importance of the Central Waterfront District, in terms of its potential for economic development which would benefit low- and moderate-income people. However, objectors have serious reservations about whether EDC is the proper entity to undertake this project, and whether the program as presently constituted will genuinely benefit low- and moderate-income persons, particularly residents of the project area.

Because of these serious concerns regarding accountability and suitability to the community, the Potrero Hill Community Development Corporation sought CDBG funding for a community-based economic development program for the Central Waterfront District which was to include, inter alia:

1. Coordination as an LDC of low-interest loan programs to finance commercial/industrial rehabilitation and local business start-ups,

2. Coordination of job training and placement programs,

3. Establishment of local contractors program, and

4. Studying feasibility of an Infant Industries Center.

This program was to have served as a prototype in community-based economic development programs, but unfortunately it did not receive funding.

Instead, EDC was funded, but there is no assurance that EDC's program will adequately address lower-income needs. For example, the Potrero Hill CDC proposal for Showplace Square was that of a community showplace--a neighborhood-managed complex of shops, restaurants, and entertainment uses. The EDC's proposal apparently ignores the key "neighborhood-managed" concept and, in fact, offers no assurances that the development will even provide jobs for lower-income neighborhood residents. To date, Showplace Square has not benefited the lower-income community and, indeed, to the contrary may significantly contribute to gentrification of the Showplace district and the resulting displacement of lower-income people. In addition, the EDA revolving fund program, a major emphasis of EDC's Central Waterfront strategy, includes no guarantees that businesses receiving loan assistance will in fact give preference to hiring lower-income neighborhood residents for long-term, permanent jobs. See 24 C.F.R. §570.203 and 24 C.F.R. §570.302(d)(iii).

To conclude, there are serious, unresolved questions about EDC's eligibility for funding under the CDBG program. It appears inappropriate for funding as part of the administration budget for CDBG, and cannot meet the criteria for an eligible economic development project without additional documentation regarding "the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons, the necessity of the activity to stimulate private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds." 24 C.F.R.. §570.203.

4. Northeast Waterfront[25]

Although the NEWF project is claimed to be directed solely at housing in the 1980 CDBG Plan, in fact the overall project is primarily economic in nature, including components aimed at hotel, tourist, office and related commercial developments, along with a small boat harbor, open space and transportation elements. It covers an extensive and prime portion of downtown San Francisco and the waterfront, and anticipates a total of $73.7 million in public funding. In carrying out its NEWF effort under CDBG funding in 1980, the SFRA must first finalize the Plan andsecure approval for it and designation of the area. As such, CDBG funded activity for 1980 is directly related to the NEWF's economic elements. In fact, the 1980 Application specifically states that "although the development of new mixed-income housing is the predominant feature of this program, there are also economic development proposals which

[25] See the thorough discussion of this project, under Housing Programs, supra, at p. 31

will result in the creation of new permanent jobs." 1980 Application, S.II, p. 28/33. While the 1979 CDBG proposal estimates the creation of 6,250-8,628 new permanent jobs (1979 Application, S.IV., "Estimated Positive Socioeconomic Impacts Resulting from 1979 CDBG Economic Development Activities," p. 66/66), no breakdown of what types of jobs will be created is provided, no affirmative action plan is disclosed, and no assurances that these jobs will in fact be accessible to lower-income people is given.

Objectors are concerned about the manner in which this project is being pursued. The City is determined to go ahead despite the fact that the planning and appproval process is incomplete. Furthermore, it requests funding for a housing program, obscuring the project's obvious and overwhelming economic development dimension. The scale, location and cost of the project indicate that it is the City's premiere economic development proposal for the 1980's, yet the City cannot demonstrate either the necessity for CDBG funding, given the favorable market conditions and high potential for profit, nor the actual benefit to lower-income residents in the form of permanent jobs. As in the case of Yerba Buena Center, the City seems to be fostering with scarce CDBG resources economic development proposals which have historically been a source of the economic problems facing lower-income people. We believe, therefore, that the NEWF Project is plainly inappropriate to meeting the City's defined economic development needs.

Finally, we urge HUD to give particular scrutiny to this project this year. Given the unorthodox manner in which the City has applied for CDBG funding for this project

(seeking only planning funding in 1979 and housing funding in 1980), its characterization of the project as one eliminating slums and blight, and its plans to have the area designated as an urban renewal area, we fear that the City is anticipating an ever-increasing NEWF CDBG allotment in the years to come. We believe HUD can and should prevent this from occurring unless and until the City can adequately demonstrate the Project's eligibility and appropriateness to meeting San Francisco's economic development needs.

VI. LOW- AND MODERATE-INCOME BENEFIT

As demonstrated in the foregoing sections of this complaint, major elements of the City's housing and economic development program are plainly inappropriate to meeting the City's identified needs and/or are otherwise ineligible for CDBG funding. Most of the challenged programs fail to benefit low- and moderate-income persons, and many of them in fact operate to the detriment of the lower-income people they were intended to benefit.

In order to effectuate the statutory purpose of the Housing and Community Development Act, CDBG regulations require that "each annnual application . . . must provide that the applicant's program as a whole shall principally benefit low- and moderate-income persons." 24 C.F.R. §570.302(b)(2). Applicants are presumed to principally benefit low- and moderate-income persons "absent substantial evidence to the contrary, where not less than 75% of the program funds" are used for projects and activities which principally benefit lower-income persons. 24 C.F.R. §570.302(b)(3). (Emphasis added.)

This complaint has provided ample evidence to seriously question whether the actual beneficiaries of a substantial portion of the City's 1980 CDBG Plan are low and moderate income persons and whether the CDBG funds are being diverted to plainly inappropriate purposes. While a precise calculation is impossible without further information, our computations indicate[26] that at best only 54.3% of the total costs subject to the program benefit rules are of demonstrable benefit to lower-income persons.

Therefore, HUD must subject the entire 1980 application to a front-end review pursuant to 24 C.F.R. §570.302(c)(2) to determine whether the activities proposed are plainly inappropriate to meeting the City's needs, and whether, taken as a whole, the proposed program principally benefits low and moderate-income persons.[27]

VII. RELIEF REQUESTED

For all the foregoing reasons, complainant respectfully requests that HUD condition approval of the following activities in the City's 1980 application and take appropriate remedial action pursuant to §570.910, including, but not limited to:

1. With respect to the Housing Assistance Plan, require the City to:
 (a) update its needs assessment so that it "accurately reflects" needs of lower-income persons;

[26] See specific itemization provided in Chart 1.

[27] The City plainly seeks to meet the benefits test by locating most of its activities within NSA/NIA boundaries whose residents are primarily lower-income persons. We urge HUD to strictly scrutinize these activities pursuant to §570.302(g)(6) which provides that location does not conclusively demonstrate lower-income benefit, but rather that the "nature of the needs identified, the relationship of the project to meeting those needs, and the net effect of the completed project shall be considered." Ibid.

(b) revise its housing goals and objectives to emphasize new construction instead of rehabilitation, to conform to past production capabilities, and to effectively mitigate displacement and other harm to lower-income persons; and

(c) conform to a reasonable and realistic performance schedule which emphasizes the priority need of new construction of assisted rental units.

2. With respect to specific housing programs:

(a) disallow funding for the RAP, HIP, Citywide HIP, Section 312 and Marks/Foran rehabilitation programs administered by BBI;

(b) disallow funding for market-rate housing programs operated by the SFRA in YBC, NEWF, Western Addition and Hunters Point, except for funding directly related to affirmative action and contract monitoring particularly in Hunters Point, Western Addition and YBC. Should these programs be deemed eligible for funding, they must, in any event, be excluded from the low and moderate-income benefit category;

(c) evaluate whether CDBG funds are being utilized by the SFRA and BBI to supplant rather than supplement city-funded activites;

(d) require the City to reprogram funds from housing programs deemed ineligible to other

housing programs which meet the needs of lower-income residents, such as the housing development corporations, the finance and site acquisition pools, public housing rehabilitation and funds necessary to support the 1,100 proposed units of new construction. Furthermore, programs deemed ineligible should be replaced with eligible programs in each affected NSA/NIA. For example, the RAP program in the North of Market must be replaced with a housing program which adequately serves the needs of its lower-income population and provides protection from displacement and other harm;

(e) require redesigned rehabilitation programs to provide adequate protections from direct or indirect displacement or other hardships to low- and moderate-income people, including, but not limited to:

(i) mandatory data collection as requested in HUD's 1979 monitoring letter,

(ii) demonstrated lower-income tenant support,

(iii) income criteria,

(iv) focus on abandoned and/or restorable although dilapidated units rather than "marginally substandard" ones in order to produce units not otherwise available for occupancy,

(v) effective rent, speculation, condominium

the City's overall strategy for economic development,

(ii) the amount of long-term employment to be generated by the activity accessible to low- and modeate-income persons, and that the majority of such jobs will be for lower-income persons, and

(iii) that there will be an effective affirmative action plan including training, placement and enforcement;

(c) disallow funding for the Yerba Buena Center Project unless and until the City can adequately demonstrate that:

(i) each component activity is either included in the preexisting HUD urban renewal financing contract, otherwise eligible under Subpart C of the regulations, or consists of repayment of temporary loans within the meaning of §570.800;

(ii) expenditure of CDBG funds is necessary and the development would not occur without such asssistance,

(iii) the project will produce long-term permanent employment opportunities for lower-income San Franciscans,

(iv) there is an effective affirmative action plan including training, placement and enforcement,

(v) private developers will be required to

contractually commit to an employment plan that will meet affirmative action goals and that the City will enforce such commitments;

(d) disallow funding for the Mayor's Economic Development Council unless and until the City can adequately demonstrate that:

(i) the Neighborhood Commercial Revitalization Program is designed to "attract or retain neighborhood commercial facilities which provide essential services" to lower-income areas (24 C.F.R. §570.302(d)(2)(ii)) (emphasis added), and that sufficient mitigation measures such as speculation control are provided to ensure that the program will not result in displacement or other harm to the lower-income residents,

(ii) EDC's activities regarding development of UDAG grant proposals does not duplicate activities already funded as general administration,

(iii) EDC's activities regarding its proposed Business Revitalization Loan Program does not duplicate the work performed by local community development corporations,

(iv) EDC's Central Waterfront Project will primarily benefit low- and moderate-

income persons, will not contribute to gentrification and lower-income displacement in the Project area, and will generate long-term employment opportunities, the majority of which will be accessible to lower-income persons. Further, the City must show that CDBG funds are necessary to stimulate private investment and that no other federal funds are available for the project,

(e) disallow funding for the NEWF project unless and until the City can adequately demonstrate that:

(i) the planning and approval process designated in the 1979 Application has been completed,

(ii) the area is blighted within the meaning of C.F.R. §520.302(e)(1),

(iii) the project meets the criteria for an NSA as defined in 24 C.F.R. §570.301(c),

(iv) the project meets the criteria for multi-year projects as defined by 24 C.F.R. §570.301(d),

(v) the project meets the criteria for economic development projects delineated in 24 C.F.R. §570.203, including generation of long-term, permanent jobs for lower-income people,

(vi) the project and its proposed CDBG

funding are necessary to stimulate private investment,

(vii) the project is otherwise eligible and appropriate to meeting San Francisco's economic development needs,

(viii) the project includes an effective affirmative action program with training, placement, and monitoring activities,

(ix) private developers will be required to commit to an employment program that will meet affirmative action goals and the City will enforce such commitments; and

(f) refuse to permit any new or expanded economic development projects to be administered by the SFRA until the Agency can demonstrate through actual performance on existing projects that it has overcome management deficiencies and can proceed expeditiously. For example, the key Fillmore Center remains undeveloped although the program was approved 13 years ago and is deemed key to the economic development of the Western Addition;

(g) require the City to include a data collection mechanism and a strong affirmative action plan as part of all economic development programs which are reprogrammed to insure that lower-income economic development needs are being met; and

(h) reprogram funds from ineligible economic development activities to existing eligible ones such as administration of local development corporations and the loan funds they utilize.

4. With regard to general program management and administration:

(a) perform a front-end review of program benefit;

(b) require the City to collect pertinent data for each client and/or household served to insure accurate projection of program beneficiaries;

(c) require the City to submit additional information:

(i) concerning the administrative, planning, budgeting, management and evaluation function, particularly of BBI and SFRA, to determine reasons for lack of progress,

(ii) explaining actions being taken to correct or remove the causes for delay;

(iii) demonstrating that the City has a continuing capacity to carry out the approved program in a timely manner; and

(d) require the City to submit progress schedules for completion of approved economic development and housing activities.

Respectfully submitted,

SAN FRANCISCO BLOCK GRANT
COMPLIANCE COALITION

By René Cazenave by MR

MARCIA ROSEN, Assistant
Director
MICHAEL TRAYNOR, Member
SAN FRANCISCO LAWYERS'
COMMITTEE FOR URBAN AFFAIRS

By Marcia Rosen

Chart 1

Low and Moderate Income Benefit

The following itemization lists all those projects from the City's 1980 CDBG Plan which we have determined are of questionable benefit to low and moderate income persons as well as those projects which the City itself placed under "other benefit" category. We have used a figure of $24,661,072 as our based for total costs subject to the program rule. This is $200,000 higher than the figure utilized by the City, representing the funding for the EDC which is a program delivery entity and should not have been included in this program administration and management total.

Listed as "Other Benefit" by the City		
YBC	$ 583,198	
NEWF	673,615	
OMI-NIA	234,800	
Total Other Benefit	$1,491,613	$ 1,491,613
Judged to be of Questionable Benefit		
HIP-Citywide	$ 154,667	
Visitacion Valley Rehab.	70,000	
HIP-Hayes Valley	242,703	
BVN II	1,007,074	
HIP-BVN I	164,903	
HP-Urban Renewal (43% of total allocation)	862,630	
WA-Urban Renewal (82% of total allocation)	4,470,634	
RAP-Nth. Market	1,147,672	
RAP-Upr. Ashbury	1,148,440	
EDC	200,000	
Street Beautification	300,000	
Total Questionable	$9,768,723	$ 9,768,723
Total Non-Lower Income Benefit		$11,260,336
Total Entitlement Subject to Program Benefits Test		$24,661,072
Total Non-Lower Income Benefit		(11,260,336)
Total Program of Lower Income Benefit		$13,400,736
Percentage of Total Program of Lower Income Benefit		54.3%